

SIRC Newsletter

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JULY 2013 | Volume 39 ■ Part 1



Southern India Regional Council ▶ THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA ▶ SET UP BY AN ACT OF PARLIAMENT

DIRECT TAXES

ALL KARNATAKA STATE LEVEL CHARTERED ACCOUNTANTS CONFERENCE HELD ON 29th AND 30th JUNE 2013 AT BANGALORE

CA. Subodh Kumar Agrawal, President, ICAI, CA. K. Raghu, Vice-President, ICAI, CA. D. Prasanna Kumar, Chairman, SIRC, CA. P.R. Suresh, Vice-Chairman, SIRC, CA. S.N. Ravindranath, Chairman, Bangalore Branch (Host Branch) with the Members of SIRC, Chairmen of all other Karnataka Branches of SIRC and other functionaries.





REGIONAL RESIDENTIAL COURSE HELD AT KODAIKANAL FROM 28TH TO 30TH JUNE 2013 - GROUP PHOTO OF PARTICIPANTS



Inauguration of Regional Residential Course held at Kodaikanal from 28th to 30th June 2013 - Seen in the picture are : CA. D. Prasanna Kumar, Chairman, SIRC, CA. V. Jayaraman, Chairman, Tiruchirappalli Branch of SIRC, CA. P.R. Aruloli, Secretary, SIRC, CA. P.V. Rajarajeswaran, Member, SIRC, CA. Gopal Krishna Raju, Treasurer, SIRC, CA. P. Saravanan, Chairman, Madurai Branch of SIRC and other functionaries.



CA. V. Murali, Member, Central Council, ICAI being felicitated by CA. Subodh Kumar Agrawal, President, ICAI and CA. K. Raghu, Vice-President, ICAI, on his assuming the position of Chairman of the South Asian Federation of Accountants (SAFA) Committee on Education, Training & CPD (an apex body of SAARC) at Colombo, Sri Lanka. Other SAFA Board Members are also seen.



Official visit of Chairman, SIRC of ICAI CA. D. Prasanna Kumar to Kakinada Branch of SIRC on 23-06-2013 - (L-R) CA. N. Suresh, Secretary, CA. M.R. Brahmananda Reddy, Vice Chairman, CA. Boda Ananda Kumar, Chairman, Kakinada Branch of SICASA, CA. D. Prasanna Kumar, Chairman, SIRC, CA. M.S. Rao, Chairman, Kakinada Branch, CA. P.R. Aruloli, Secretary, SIRC, CA. B.V. Subba Rao, Treasurer and CA. T. Pavan Kumar, MC Member



Official visit of Chairman, SIRC of ICAI CA. D. Prasanna Kumar to Rajahmendravaram Branch of SIRC on 23-06-2013 (L-R) CA. Krishna Kumar, Chairperson, Rajahmendravaram Branch of SICASA, CA. Karite Venkateswarlu, Vice Chairman, CA. P. Sri Rama Rao, MC Member, CA. G. Srinivas, Secretary, CA. S.V.S. Viswanath, Chairman, Rajahmendravaram Branch, CA. D. Prasanna Kumar, Chairman, SIRC, CA. P.R. Aruloli, Secretary, SIRC, CA. Adusumilli Venkateswara Rao, Ex-officio Member, Rajahmendravaram Branch, CA. B. Sekkizhar, Chairman, SICASA and CA. T. Veerabhadra Rao, Treasurer.



GMCS Valedictory Session on 29th June 2013: CA. D. Prasanna Kumar, Chairman, SIRC, CA. V. Murali, Vice Chairman, Board of Studies, ICAI and CA. S. RamaKrishnan, Chief Executive Officer, MARG Properties are in the picture.



GMCS Valedictory Session on 14th June 2013: CA. Gopal Krishna Raju, Treasurer, SIRC, CA. P.R. Aruloli, Secretary, SIRC, CA. V. Murali, Vice Chairman, Board of Studies, ICAI, Sri. Abhinav Chowdury, Executive Committee Member, New College, Chennai and Dr. T. Sankaraveer, Resource Person are in the picture.

Chairman writes ...



My dear Professional Colleagues, ICAI – Looking Back

“Strength is looking back, seeing what you have been through and knowing you were strong enough to make it through. Looking back, it was all worth it.”

When I start to pen my communiqué to our members, I cannot but look with admiration the journey of our Alma mater, the Institute of Chartered Accountants of India had over the last 64 years. On 1st of July 2013, the ICAI has entered into its 65th year of its existence and marching with more verve and enthusiasm to heighten its glorious past and equipping to the challenges and opportunities to the profession in the future.

On this glorious and momentous occasion, I join with my colleagues in the Regional Council to salute those whose unstinted efforts have seen the formation of this great Institute on 1st July 1949. I pay my respects to Mr. G.P. Kapadia, the First President of the Institute and his team who were the precursor when ICAI was formed and to all the Members of the Central Council, to the members of the Regional Councils and the Branches of the Regional Councils who have assiduously kept the Flag of the ICAI flying to greater heights of glory and contributed to the successful growth of the Institute.

Looking at the History of ICAI, it has been a long and constant parley with the Government of India for establishment of an accounting body in India prior to and after India's Independence. Our Institute which came into being after Independence and before India becoming Republic was due to the constant and continuous follow up by our elders in the profession who thought that an independent accounting body should be formed to regulate the profession of accountancy in India and their efforts yielded results after protracted discussion at various levels in the Government.

In the year 1913 the accounting profession was recognized through a statutory provision in the form of Indian Companies Act, 1913 providing a clause requiring the Companies to have their accounts audited by the Auditors. Two decades later (in the year 1932) came the Accountancy Board which in effect had led to the establishment of the Institute of Chartered Accountants of India in the year 1949 by an Act of Parliament as a statutory body to regulate the profession of accountancy in India. The amount of arguments put forward for the nomenclature of the accounting body by the leading luminaries during the discussion on the Companies (Amendment) Bill introduced in the Legislative Assembly on 23rd March 1936 followed by deliberations over the years through Select Committee, Indian Accountancy Board, etc., putting forward the reasoning for the name gave birth to the name of the Institute as “The Institute of Chartered Accountants of India”.

It is my proud privilege and pleasure to recall and share with the members about our Institute which entered into its 65th year.

Collective Leadership and Responsibility

The foregoing paragraph only illustrates the significance of Collective Leadership and assuming collective responsibility in every sphere of activity of the Institute by the members at the helm of office and their team in taking forward the legacy of the Institute over the years. I am confident that the ICAI will annex new laurels in the years to come.

Revision of Remuneration of Statutory Central and Branch Auditors of Public Sector Banks

The Reserve Bank of India has revised the remuneration payable to the Statutory Central and Branch Auditors of Public Sector Banks from the year 2012-13.

Visit to Branches

During the month of June 2013, I had the pleasant privilege to visit the Kakinada and Rajamahendravaram Branches of SIRC and to participate in the Seminars organised by them. The interaction with the members of these two Branches was very lively and fruitful in as much it gave an opportunity to discuss issues of professional interest, especially at non-metro places. I congratulate CA. M. Surya Rao, Chairman of Kakinada Branch and CA. Ch. S.V.S. Viswanath, Chairman of Rajamahendravaram Branch for the excellent Seminars conducted by them for the benefit of Members. Both these Branches are located in East Godavari District of Andhra Pradesh which is the only District having two Branches of ICAI in Southern Region.

Visit of President and Vice-President of ICAI to Bangalore

I had the privilege of sharing the dais with our beloved President CA. Subodh Kumar Agrawal and Vice-President CA. K. Raghu on 29th June at 2013 in the Inaugural session of “All Karnataka State Level Chartered Accountants Conference” at Bangalore. I congratulate CA. S.N. Ravindranath, Chairman of Bangalore Branch and his team and the Chairmen of other Branches in Karnataka and their team for well designed and organised Conference.

Sports Activities for Members

As has been mentioned to you through this column a couple of months before, all the Branches were requested to organize Inter-Branch Cricket and Shuttle Badminton matches at State Level. Many Branches have organized the events and other Branches have planned to complete in July 2013. I am happy to inform you that members have shown keen interest in sports events. Karnataka is the first State to conclude the

SIRC CALENDAR

JULY & AUGUST 2013

Contact: Dr. T. Paramasivan, Senior Deputy Director (Tech.) – ICAI – Phone: 044 – 30210361 / 320 – E-mail: sirc@icai.in								
S. No.	Date and Day	Programme Name	Resource Persons	Timings	Venue	CPE Credit	Delegate Fees	Page No
1	July 10, 2013 Wednesday	Study Circle Meeting on Capital Gains – Residential Property	CA. S. Krishnan Chennai	6.15 p.m. – 8.30 p.m.	P. Brahmayya Memorial Hall	2	150	-
2	July 12, 2013 Friday	One Day Seminar on Taxation		10.00 a.m. – 5.00 p.m.	P. Brahmayya Memorial Hall	6	750	6
3	July 15, 2013 Monday	Group Discussion on Exposure Draft – Regulatory Deferral Accounts by IASB		4.30 p.m. – 6.30 p.m.	SIRC Premises	-	NA	
4	July 16, 2013 Tuesday	CPE Teleconference	Details will be hosted in ICAI/SIRC website	11.00 a.m. – 1.00 p.m.	SIRC Premises	2	150	
5	July 17, 2013 Wednesday	Study Circle Meeting on Appeals under IT Act, 1961	CA. GVN Hari Visakhapatnam	6.15 p.m. – 8.30 p.m.	P. Brahmayya Memorial Hall	2	No Delegate Fee	-
6	July 20, 2013 Saturday	Workshop on Indirect Taxes		10.00 a.m. – 5.00 p.m.	P. Brahmayya Memorial Hall	6	750	6
7	July 23, 2013 Tuesday	Study Circle Meeting on Practical Issues in Concurrent Audit	CA. Ranjith Kumar Pondicherry	6.15 p.m. – 8.30 p.m.	P. Brahmayya Memorial Hall	2	150	
8	July 24, 2013 Wednesday	CPE Teleconference	Details will be hosted in ICAI/SIRC website	11.00 a.m. – 1.00 p.m.	SIRC Premises	2	150	
9	July 24, 2013 Wednesday	62nd Annual General Meeting of SIRC of ICAI		05.30 p.m.	P. Brahmayya Memorial Hall	-	-	6
10	July 27, 2013 Saturday	Seminar on E-filing & CPC		10.00 a.m. – 1.00p.m.	P. Brahmayya Memorial Hall	3	500	Details will be hosted in SIRC website
11	July 31, 2013 Wednesday	Study Circle Meeting on Taxation of Royalty - Income Tax Act, 1961 vis-a-vis DTAA	CA. G. Paari Chennai	6.15 p.m. – 8.30 p.m.	P. Brahmayya Memorial Hall	2	150	
12	August 2, 2013 Friday	Sub-Regional Conference of SIRC at Ernakulam		10.00 a.m. – 5.30p.m	Mercy Luxury Hotel, Ernakulam	6	Details will be hosted in SIRC website	
13	August 3, 2013 Saturday	Seminar on Tax Audit		10.00 a.m. – 5.00p.m	P. Brahmayya Memorial Hall	6	750	7
14	August 3 & 4, 2013 Saturday & Sunday	Regional Residential Course at Courtallam			The Kuttalam Heritage, Ilangi	12	Details inside	8
15	August 6 -7, 2013 Tue & Wed	Workshop on Enabling Service Tax Practice		10.00 a.m. – 5.00p.m.	P. Brahmayya Memorial Hall	12	1500	7
16	August 7, 2013 Wednesday	Study Circle Meeting on Fraud Risk Factors in Corporate Governance	CA. Surya Pawan Kumar Chennai	6.15 p.m. – 8.30 p.m.	P. Brahmayya Memorial Hall	2	150	
17	August 10, 2013 Saturday	Seminar on Accounting Standards		10.00 a.m. – 5.00p.m.	P. Brahmayya Memorial Hall	6	750	7

SIRC CALENDAR (Contd..)

18	August 10 & 11, 2013 Saturday & Sunday	Regional Residential Course at Dindi (East Godavari Dist., A.P)	Haritha Coconut Country Resorts	12	Details inside	8
19	August 14, 2013 Wednesday	Study Circle Meeting on Implications of Sec. 47A of Stamp Act	P. Brahmayya Memorial Hall	2	150	
20	August 15, 2013 Thursday	Independence Day Celebrations	SIRC Premises	NA	NA	
21	August 16 & 17, 2013 Friday & Saturday	Sub-Regional Conference of SIRC at Hyderabad	Details will be hosted in SIRC website	12	Details will be hosted in SIRC website	
22	August 17, 2013 Saturday	Workshop on Direct Taxes	P. Brahmayya Memorial Hall	6	750	7

Unless otherwise specified, the delegate fee for SIRC Programmes may be paid by way of Cash or by Cheque / DD drawn in favour of 'SIRC of ICAI' payable at Chennai shall be sent to SIRC of ICAI, 'ICAI Bhawan', No.122, Mahatma Gandhi Road, Nungambakkam, Chennai - 600034. Phone: 044-30210320; Fax: 044-30210355; Email: sirc@icai.in

45th SIRC REGIONAL CONFERENCE AT VISAKHAPATNAM **13th AND 14th DECEMBER 2013** **AWAIT FOR DETAILED INFORMATION**

CHAIRMAN WRITES (Contd..)

Cricket Matches and I congratulate Bangalore Branch who are Winners at Karnataka State Level. The details of all winners would be published in the next issue of the Newsletter.

Landslide and Flood Havoc at Uttarakhand

Extensive devastation due to landslide and unprecedented flood at Uttarakhand took away precious lives of the people and left thousands of people stranded and rendering them homeless. In this hour of crisis and need, the people of Uttarakhand have all our support and ICAI has made an appeal to the members to contribute liberally to the Prime Ministers' National Relief Fund (PMNRF) to express our solidarity. SIRC requests members to come forward to alleviate the sufferings of those affected through their munificent contribution. The donations can be deposited into an exclusive Bank Account opened for the specific purpose. More details are published in Page No. 15 in this Newsletter.

Regional Residential Courses

On the 28th June SIRC conducted yet another Regional Residential Course at Kodaikanal and the response was very encouraging. The pleasant atmosphere, the thoughtful deliberations and the lively exchange of thoughts by the participants on the professional matters gave me and my team impetus to focus more on the conduct of such courses. The Residential Course at Kodaikanal was well co-ordinated by CA. V. Jayaraman, Chairman of Tiruchirapalli Branch and CA. P. Saravanan, Chairman of Madurai Branch. I congratulate both the Chairmen and their Management Committee Members for the excellent arrangements.

Members would have noticed that SIRC had a road map for organizing the Residential Courses which was outlined in the last issue. The details of the forth coming Residential Courses at Courtalam (Tamil Nadu) and Dindi (East Godavari District in Andhra Pradesh) are published in Page No. 8. In this issue. I invite members to join in large numbers.

Sub-Regional Conferences

SIRC is proposing Five Sub-Regional Conferences in all the four States of Southern India and the Union Territory of Pondicherry. The details of the Conference would be published in the next issue of the Newsletter. The first two Sub-Regional Conferences are scheduled to be held at Ernakulam on 2nd August 2013 and at Hyderabad on 16th & 17th August 2013

Until we meet through this column, my warm regards,

Yours in professional service



CA. D. PRASANNA KUMAR
chairmansirc@gmail.com

EDITORIAL BOARD

Editor :	CA. D. Prasanna Kumar
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**SOUTHERN INDIA REGIONAL COUNCIL OF
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

'ICAI Bhawan', No.122, Mahatma Gandhi Road, Nungambakkam, Chennai - 600034

**62nd
ANNUAL GENERAL MEETING OF SIRC OF ICAI
NOTICE**

In Supersession of the Notice dated April 25, 2013 convening the **62nd Annual General Meeting** of the Southern India Regional Council of the Institute of Chartered Accountants of India on 7th June 2013, it is hereby notified that the said meeting will now be held on **Wednesday, 24th July 2013 at 05.30 p.m.** at the **P. Brahmayya Memorial Hall at 'ICAI Bhawan', No. 122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600034** to transact the following agenda:

1. To receive the Annual Report of the Regional Council for the year ended 31st March 2013
2. To receive the Audited Financial Statements of the Regional Council for the year ended 31st March 2013 together with the Auditor's Report thereon; and
3. To transact any other business that may be brought before the meeting including any resolution(s) received and/or any resolutions that may be received from the member(s) subject to the fulfillment of conditions under Regulations 150 & 151 of the CA Regulations, 1988 with the permission of the Chair.

BY ORDER OF THE
SOUTHERN INDIA REGIONAL COUNCIL OF ICAI

CA. P.R. ARULOLI
SECRETARY

Place: Chennai
Date: 4th July 2013

Note:

1. The aforesaid documents are being sent by email, and have been hosted on the website of the Southern India Regional Council of the Institute of Chartered Accountants of India [www.sircoficai.org] and have also been displayed on the Notice Board at the Southern India Regional Council of the Institute of Chartered Accountants of India. Members who have not received those documents may provide their email ids to sirc@icai.in to enable us to send the notice to members by email.
2. Members desirous of having hardcopy of the aforesaid documents may write with their ICAI Membership Number to Dr. T. Paramasivan, Senior Deputy Director (Tech.), the Institute of Chartered Accountants of India, 'ICAI Bhawan', Post Box No. 3314, No. 122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600034 (email: sirc@icai.in)

CPE Credit 6 HOURS	SEMINAR ON TAXATION	Friday 12th July, 2013	P. Brahmayya Memorial Hall, 'ICAI Bhawan' No.122, MG Road, Nungambakkam Chennai - 600 034
Timings: 10.00 AM to 5.00 PM			DELEGATE FEE: ₹ 750
Topics	Resource Persons	Timings	
TDS & Sec. 44 AD – Recent Developments	CA. N S Srinivasan , Chennai	10.00 a.m - 12.00 Noon	
Survey, Interest & Penalties	CA. P. Anand , Chennai	12.00 Noon - 1.00 p.m 2.00 p.m - 3.00 p.m	
Assessment and Re-assessment under Income Tax Act	CA. J. Prabhakar , Chennai	3.00 p.m - 5.00 p.m	
CA. P.R. Aruloli Secretary, SIRC		CA. D. Prasanna Kumar Chairman, SIRC	

CPE Credit 6 HOURS	WORKSHOP ON INDIRECT TAXES	Saturday 20th July, 2013	P. Brahmayya Memorial Hall, 'ICAI Bhawan' No.122, MG Road, Nungambakkam Chennai - 600 034
Timings: 10.00 AM to 5.00 PM			DELEGATE FEE: ₹ 750
Topics	Resource Persons	Timings	
Central Excise Excise Valuation - What a CA should know Central Excise - Value Added Service by a CA during finalisation of accounts	CA. V. Prasanna Krishnan , Chennai	10.00 a.m - 1.00 p.m	
Service Tax Service Tax Intricacies in Composite Transactions	CA. K. Sivarajan , Chennai	2.00 p.m - 5.00 p.m	
CA. P.R. Aruloli Secretary, SIRC		CA. D. Prasanna Kumar Chairman, SIRC	

CPE Credit 6 HOURS	SEMINAR ON TAX AUDIT	Saturday 3 rd August , 2013	P. Brahmayya Memorial Hall, 'ICAI Bhawan' No.122, MG Road, Nungambakkam Chennai - 600 034
Timings: 10.00 AM to 5.00 PM			DELEGATE FEE: ` 750
Topics	Resource Persons	Timings	
Clause by Clause Discussion- Form 3 CD	CA. P Anand, Chennai	10.00 a.m. – 11.30 a.m.	
Documentation	Eminent Resource Person	11.30 a.m. – 1.00 p.m.	
Tax Audit - An Analysis	CA. S. Ramachandran, Coimbatore	2.00 p.m. – 3.30 p.m.	
Applicability of Accounting Standards- (ICAI & TAS)	CA. Ulaganthan Shankar K, Chennai	3.30 p.m. – 5.00 p.m.	
CA. P.R. Aruloli Secretary, SIRC		CA. D. Prasanna Kumar Chairman, SIRC	
CPE Credit 12 HOURS	WORKSHOP ON ENABLING SERVICE TAX PRACTICE	Tuesday & Wednesday 6 th & 7 th August , 2013	P. Brahmayya Memorial Hall, 'ICAI Bhawan' No.122, MG Road, Nungambakkam Chennai - 600 034
Timings: 10.00 AM to 5.00 PM			DELEGATE FEE: ` 1500
Day - 1 Tuesday, 10.00 a.m to 5.00 p.m			
Topics	Resource Persons		
Definition of Service its taxability and Negative List '	CA. J Balasubramanian, Madurai		
Declared service, Place of provision of Service and Exempted Service	CA. G Saravana Kumar, Madurai		
Cenvat Credit Rules, 2004 relating to Service Tax	CA. S. Chandrasekhar, Tirupur		
Valuation Rules	CA. V Prasanna Krishnan, Chennai		
Day - 2 Wednesday, 10.00 a.m to 5.00 p.m			
Topics	Resource Persons		
Provisions and Rules relating to Construction & Works contract	CA. V Alagappan, Tiruchirapalli		
Reverse Charge, Joint Charge and their Taxability	CA. J. Purushothaman, Chennai		
Point of Taxation Rules	CA. Vijay Anand V, Chennai		
Statutory compliance like registration, issue of invoice, payment of Tax, Adjustment of Excess Payment of Tax: filing of Periodical Returns, Refund of Service Tax, etc.,	CA. P. Sankaran, Chennai		
CA. P.R. Aruloli Secretary, SIRC		CA. D. Prasanna Kumar Chairman, SIRC	
CPE Credit 6 HOURS	SEMINAR ON ACCOUNTING STANDARDS	Saturday 10 th August , 2013	P. Brahmayya Memorial Hall, 'ICAI Bhawan' No.122, MG Road, Nungambakkam Chennai - 600 034
Timings: 10.00 AM to 5.00 PM			DELEGATE FEE: ` 750
Topics	Resource Persons	Timings	
AS – 7 Construction Contracts	CA. Chinnsamy Ganesan, Chennai	10.00 a.m. – 12.00 noon	
AS – 19 Leases	CA. P Baskar, Chennai	12.00 noon – 1.00 p.m. & 2.00 p.m. – 3.00p.m.	
AS – 15 Employee Benefits	CA. Sathish Vaidyanathan, Chennai	3.00 p.m. – 5.00 p.m.	
CA. P.R. Aruloli Secretary, SIRC		CA. D. Prasanna Kumar Chairman, SIRC	
CPE Credit 6 HOURS	WORKSHOP ON DIRECT TAXES	Saturday 17 th August , 2013	P. Brahmayya Memorial Hall, 'ICAI Bhawan' No.122, MG Road, Nungambakkam Chennai - 600 034
Timings: 10.00 AM to 5.00 PM			DELEGATE FEE: ` 750
Topics	Resource Persons	Timings	
Minimum Alternate Taxes- Select Case Laws & Provisions	CA. T. Banusekar, Chennai	10.00 a.m. – 1.00 p.m.	
Deemed Dividend- Issues & Latest Developments	CA.V. Karthikeyan, Chennai	2.00 p.m. – 5.00 p.m.	
CA. P.R. Aruloli Secretary, SIRC		CA. D. Prasanna Kumar Chairman, SIRC	

REGIONAL RESIDENTIAL SEMINAR AT COURTALLAM**Host: Tirunelveli Branch of SIRC of ICAI****Saturday - Sunday
August 3 & 4, 2013****The Kuttalam Heritage
Shengottai Courtallam
Main Road, Ilangi.****CPE Credit
12
HOURS**Inaugural Address at 09.00 a.m. by **CA. D. Prasanna Kumar, Chairman, SIRC of ICAI**

Day - 1		Resource Person	
TDS Issues on Tax Audit	CA. G. Sekar Chennai	Delegate Capacity – 50 Persons only Residential (On First Come First Served) Non A/c Room A/c Room Members Rs. 4250 Rs. 4750 Accompanying Spouse Rs. 3750 Rs. 4250 Children above 12 years Rs. 3750 Rs. 4250 Children between 6 to 12 years Rs. 2000 Rs. 2500 Non –Residential Members Rs. 2000 BATH ARRANGED AT PRIVATE FALLS Trains connected to Tenkasi : Pothigai Express From Chennai – Train No. 12661 – Aug 2, 2013 – Time 08.05 p.m. From Tenkasi – Train No. 12662 – Aug 4, 2013 – Time 07.16 p.m. Pick-up and Drop-at Tenkasi Railway Station Delegate fee by way of Cash or by Cheque/Demand Draft drawn in favour of 'Tirunelveli Branch of SIRC of ICAI' payable at Tirunelveli shall be sent to: Tirunelveli Branch of SIRC of ICAI, 38-A, Angu Vilas Building, V.K. Road, Tirunelveli Jn. – 627 001. Phone : 0462 – 2339554 Email: tirunelveli@icai.org	
Talent Strategy for Professional Service Firms	CA. P.R. Aruloli Chennai		
Managing Audit Risk	CA. K. Sripriya Chennai		
Day - 2		Resource Person	
Input Tax Credit under TNVAT	CA. V.V. Sampathkumar Chennai	Non –Residential Members Rs. 2000 BATH ARRANGED AT PRIVATE FALLS Trains connected to Tenkasi : Pothigai Express From Chennai – Train No. 12661 – Aug 2, 2013 – Time 08.05 p.m. From Tenkasi – Train No. 12662 – Aug 4, 2013 – Time 07.16 p.m. Pick-up and Drop-at Tenkasi Railway Station Delegate fee by way of Cash or by Cheque/Demand Draft drawn in favour of 'Tirunelveli Branch of SIRC of ICAI' payable at Tirunelveli shall be sent to: Tirunelveli Branch of SIRC of ICAI, 38-A, Angu Vilas Building, V.K. Road, Tirunelveli Jn. – 627 001. Phone : 0462 – 2339554 Email: tirunelveli@icai.org	
TNVAT Audit	CA. V.P. Manavalan Chennai		
Service Tax – Issues on Negative List Regime	CA. Rajendra Kumar.P. Chennai		

CA. P.R. Aruloli

Secretary, SIRC of ICAI

Ex-officio Member, Tirunelveli Branch

CA. D. Prasanna Kumar

Chairman, SIRC of ICAI

CA. RBK. Samuel

Secretary, Tirunelveli Branch of SIRC of ICAI

0 94431 35162

CA. V. Ramasamy

Chairman, Tirunelveli Branch of SIRC of ICAI

0 94433 80361

SIRC REGIONAL RESIDENTIAL COURSE AT DINDI (EG. Dist)

Hosted by Rajamahendravaram and Kakinada Branches of SIRC of ICAI

**Saturday - Sunday
August 10 & 11, 2013****Haritha Coconut Country Resorts
DINDI, East Godavari Dist., AP****CPE Credit
12
HOURS**

Inauguration : 1.30 p.m.

Inaugural Address : **CA. D Prasanna Kumar, Chairman, SIRC of ICAI**

Topics	Resource Person
Day -1 - Saturday	
Issues relating to Construction & Real Estate, Joint Charge & Reverse Charge Mechanism of Service Tax.	CA. V.S. Sudhir, Hyderabad
Day -2 - Sunday	
Practical Issues in Tax Audit under Sec 44AB of the Income Tax Act 1961.	CA. E. Phalgun Kumar, Tirupati
E Filing Procedures of IT Returns & Tax Audit Reports u/s 44AB of the Income Tax Act	CA. Kunda Ramnarayana, Vijayawada
Issues in Foreign Contribution Regulation Act (FCRA)	CA. Ch. Karthik Krishna Pavan Kumar, Kakinada

Residential Members (Twin Sharing Basis): **Rs.4000**

Pick-up at

Non Residential Members: **Rs.2000**

Rajahmundry / Bhimavaram Railway Station

Limited Seats Registration on First Come First Serve Basis

Delegate fee by way of Cash or by Cheque/DD drawn in favour of '**Rajamahendravaram Branch of SIRC of ICAI**' payable at Rajahmundry shall be sent to Rajamahendravaram Branch of SIRC of ICAI, Door No.29-2-3, Sommina Building, Opp: State Bank of India, Pushkar Ghatt Branch, Near Gokavaram Bus Stand, Rajamahendravaram -533104. Ph:-0883-2472488, e-mail: rajamahendravaram@icai.org; [or]

Delegate fee by way of Cash or by Cheque / DD drawn in favour of '**Kakinada Branch of SIRC of ICAI**' payable at Kakinada shall be sent to Kakinada Branch of SIRC of ICAI, ICAI Bhawan, Door No. 70-10-7/A, Beside Satya Bhaskar Public School, Near Nagamallithotta Jn., NFCL Road, East Godavari, Kakinada - 533003, Ph:-0884-2364402, e-mail:kakinada@icai.org;

CA. P.R. Aruloli Secretary, SIRC 0 98840 61349	CA. Adusumilli Venkateswara Rao Ex-officio Member, Rajamahendravaram and Kakinada Branches of SIRC 0 92465 39689	CA. D. Prasanna Kumar Chairman, SIRC 0 98481 92636
CA. Ch. S.V.S. Viswanath Chairman, Rajamahendravaram Branch 0 98491 15212	CA. Godavari Srinivas Secretary, Rajamahendravaram Branch 0 98662 49249	CA. Mandhata Surya Rao Chairman Kakinada Branch 0 93460 52259
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Taxation of Salary to partner of a partnership firm



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Executive Summary

Salary paid to a partner by a firm is taxed in his hands under the head "Profits & Gains of Business or Profession". Such salary has the same character as the profits earned by the firm as held by the Apex Court in a number of rulings. Given the same, if other conditions are satisfied, such salary earned should be eligible for presumptive rate of taxation under section 44AD.

Under current law, the partner's salary is allowed as a deduction (subject to specified limits) in computing the total income of the firm. Such salary can be offered to tax at presumptive rates to lessen the tax outgo in the hands of partners. Given that the scheme of taxation for a LLP is the same as that of a partnership firm, if other conditions are satisfied, the partner of a LLP should also be eligible for presumptive rate of taxation.

Introduction

In the recent case of Usha Narayananvs DCIT (ITA 703/ Kol/2012), the AO held that the salary of a partner of a partnership firm is liable to tax as "Profits & Gains of Business or Profession" u/s 28(v) of the Act and accordingly levied penalty for failure to get books of accounts audited u/s 271B of the Act. This action was upheld by the Kolkata ITAT.

An interesting outcome is the emphasis on salaries paid to partners by a partnership firm being treated as "Profits & Gains of Business or Profession" u/s 28(v) of the Act.

Section 44AD of the Act provides for small business entities the option to offer 8% of their total turnover or gross receipts in the relevant financial year as income chargeable under the head "Profits & Gains of Business or Profession".

The scope of this article is to explore whether salary, commission etc paid to partners is eligible for section 44AD.

A brief summary of provisions of section 44AD is as below:

Eligible assessee

Eligible assessee means:

- An individual
- A Hindu Undivided Family
- A partnership firm

Being a **resident**.

Eligible assessee **does not** include a Limited Liability Partnership or a company.

Such eligible assessee should not have claimed deduction u/s 10A, 10B, 10BA, 10AA or profit linked deductions under Chapter VI-A – Part C thereof (sections 80H to 80RRB)

Such eligible assessee should be carrying on an eligible business.

Eligible business

Eligible business means:

- Any business except business of plying, hiring or leasing goods carriages

- Whose total turnover or gross receipts does not exceed Rs 1 crore during the relevant financial year

Non applicability

Section 44AD is not applicable in case of

- A person carrying on a profession
- A person earning income in the nature of commission or brokerage
- A person carrying on any agency business

Other points

- Section 44AD overrides normal computation provisions as it begins with "Notwithstanding anything to the contrary contained in sections 28 to 43CE"
- Advance tax is not payable when section 44AD applies
- Depreciation on assets shall be deemed to have been claimed and allowed
- Partners' salary, bonus, remuneration, interest would be allowed as a deduction in computing income of firm based on limits prescribed.

Why salary when share income is anyway exempt?

The share of profits is not deductible in hands of the firm and such share of profits is exempt in hands of partners. However, the salaries paid to partners are deductible in hands of firm subject to limits laid down in section 40(b) and such salaries are also taxable in hands of partners under the head "Profits & Gains of Business or Profession". The benefit is to the firm which avails deduction u/s 40(b) and to the partners who may be able to avail the flat rate of 8% provided u/s 44AD.

Legislative history of tax on partners' salaries

Prior to Finance Act 1992, the system of levy of tax on firms involved double taxation. Tax was payable by the firm on its income and balance was again taxed in hands of partners at applicable rates. Salaries, interest, etc paid to partners were not allowed as a deduction in hands of the firm and the same was not taxed in hands of partners.

Finance Act 1992 brought in a new scheme of taxation of firms and partners whereby share income was exempt in hands of partners but salaries from firms were taxed in their hands and allowed as a deduction in hands of firms.

Issues

Whether salary received by partner can be offered u/s 44AD?

The issue would be whether the salary earned by partner from a firm carrying on eligible business can be said to be from carrying on 'eligible' business.

In CIT vs Chidambaram Pillai, etc (106 ITR 292), a tea estate was owned by a partnership firm. The tea sold yielded income which was composite in character, being largely agricultural and partly non-agricultural. The partners were, in addition to their share in profits, entitled to salaries for services under the firms. The

question was whether the salaries paid to partners were wholly liable to tax in their hands or only part thereof (representing the business component) was so liable. The Apex Court referred to Chidambaram Pillaivs CIT (77 ITR 494) (Mad-HC, FB) wherein it was held that the true character of the salary of a partner is the same as that of the profits of the firm. The Apex Court also made the following observations:

- A partner cannot be employed by his firm as a man cannot be his own employer
- In CIT vs Ramniklal Kothari 74 ITR 57 (SC), it was held that the expenses incurred by partner for earning salary, interest, etc would be allowed as a deduction in calculating his income chargeable to tax under 'Profits & Gains of Business or Profession'.
- **Business of the firm was business of the partners.** The profits of the firm were profits of the partners and expenditure incurred by partners in earning such share was admissible for deduction in arriving at the total income **[emphasis supplied]**

The above ruling was rendered for AY 1959-60, 1960-61. However, the principles enunciated in the above ruling are still valid.

Whether a partner of an LLP can avail the benefit of section 44AD?

Under LLP Act, the LLP is a separate legal entity from its partners. However, given that a LLP is also included in the definition of 'firm' u/s 2(23) of Income Tax Act, the scheme of taxation as applies to a partnership firm should apply to a LLP as well. Consequently, other conditions being satisfied, the partner of a LLP should also be eligible for the benefit of section 44AD though the LLP itself is not eligible, being specifically excluded.

Section 28(v) versus section 44AD

Section 28(v) provides that extent of partner's salary not allowed as a deduction u/s 40(b) in the hands of the firm would not be chargeable to tax in the hands of the partner. However, section 44AD begins with a non-obstante clause which overrides anything to the contrary contained in sections 28 to 43C. From a reading of both provisions, it appears that the gross amount paid to partners (irrespective of availability of deduction u/s 40(b) for firm) as salary will be chargeable u/s 44AD.

Section 40/ 40A versus section 44AD

Sections 40, 40A, 43B lay down additional conditions to claim certain deductions. Section 40 begins with a non-obstante clause regarding operations of sections 30 to 38. Section 40A and 43B begin with a non obstante clause with respect to any other provision of the Act in computation of income under the head 'Profits and Gains of Business or Profession'.

As seen above, section 44AD begins with a non-obstante clause which overrides anything to the contrary contained in sections 28 to 43C.

In Surendra Pal vs CIT (242 CTR 61), the P&H High Court held that once under the special provision of section 44AD of the IT Act apply, exemption from maintenance of books of accounts have been provided and the presumptive tax at 8% of the gross receipts itself is the basis for determining the taxable income. The assessee was not under obligation to explain individual entry of

cash deposits in the bank unless such entries had no nexus with the gross receipts. It observed:

"Though from the details filed by assessee the Id. AO observed that no TDS has been recovered, in our opinion, since assessee has disclosed the profits more than 8% of the gross receipts and there is no dispute in receipt of the gross receipts the addition made by Id. CIT(A) u/s 40(a)(ia) of the IT Act is not sustainable."

Commission paid to a partner as per partnership deed - whether eligible u/s 44AD?

Two main issues would need to be addressed:

a. Whether commission paid to partners as per partnership deed is in the nature of salary paid to partners?

Section 44AD was made inapplicable (with retrospective effect from 1-4-2011) to commission, brokerage and agency business by Finance Act 2012. However, one may argue that commission paid to a partner as provided in partnership deed is in the nature of a share of profit and would not fall within the ambit of 'commission'. The reason is that the source for both commission and salary paid to a partner is the partnership deed. It is merely the method of computation and timing of payment that would vary.

A contrary argument may exist that the essence of a partnership is 'mutual agency'. Each partner has the right to enter into agreements with third parties on behalf of other partners and the firm. A question may then arise whether salary, etc paid to partner is income from agency business. It may be noted that unlike section 194A which exempts interest paid to a partner by a firm, no such explicit exemption exists for section 194H. Further, in Assam Tea House (344 ITR 507), the P&H High Court held that on payment of commission to a partner, the relationship of principal and agent comes into place and withholding is required on such payment.

b. Whether such commission is eligible u/s 44AD?

The extent of separation of firm and its partners are relevant. In Chidambaram Pillai (supra), the Apex Court observed that a firm is not a legal person even though it has some attributes of personality. In income tax law, a firm is a unit of assessment not a full person. Consequently, there cannot be a contract of employment, in strict law, between a firm and its partner. Any agreement for remuneration must be regarded as portion of the profits made over as a reward for human capital brought in.

Section 28(v) also provides that "any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm..." The language of the charging section is similar to the definition of 'remuneration' in section 40(b)(i).

Going by the above observations of the Apex Court and the wording of the charging section, it appears that the salary, commission, etc would have the same character as the profits earned by the firm. Given the same, if the profits of the firm are from an eligible business, the same should be eligible for claim of section 44AD.

What would be the tests to distinguish profession from business?

Section 44AD is available only in respect of eligible business and not for a profession. The distinction between 'business' and

'profession' depends on facts and circumstances of the case and would depend on inter-alia factors such as:

- Extent of personal skill, reputation, knowledge employed
- Extent of manpower ie skilled and unskilled labour employed
- Extent of personal qualifications required vis-à-vis capital employed
- Whether the profession is organised or not
- Whether a recognised standard of conduct is enforced on members or not

To illustrate, the running of a hospital and a clinic by a doctor may amount to carrying on of a business and a profession. Similarly, though Information Technology is a notified profession u/s 44AA, it may not be possible to state that big IT companies such as Infosys / TCS, etc are carrying on a profession. The carrying on of consulting business by multinational firms may also amount to business given the different lines of practice, targets involved, skilled manpower employed, capital employed, risk involved and mitigation steps taken, succession planning, etc. The presence of multiple practice lines reduces involvement / dependencies on individuals and may thus constitute 'business'.

Whether foreign firm itself is eligible to 44AD?

In Canoro Resources 313 ITR 2 the Authority for Advance Ruling ("AAR") held that share income exemption u/s 10(2A) of Indian Income Tax Act, 1961 is applicable for a Canadian firm as Canadian partnership law is similar. It referred to section 6(2) of the Indian Income Tax Act, 1961 and observed that a firm will have to be considered a resident except where during the year the control and management of its affairs is situated wholly outside India.

Apart from the above, in case the foreign firm has a Permanent Establishment ('PE') in India, the question whether the PE can claim the benefit of section 44AD on the basis of non-discrimination would need to be examined.

As a corollary, the partner of such a foreign firm, if he is a resident, may be able to claim the benefit of section 44AD. If the partner is a non-resident as per the Act, the provisions of non-discrimination article in relevant treaty would need to be examined.

Method of accounting by partners

In DCIT vs Vijay Kumar Patni (293 ITR (AT) 54 (Nag) where a firm followed mercantile system of accounting and partners followed cash basis, it was held that the credit of amounts by a firm to the accounts of its partners is 'deemed to be received' for the purposes of Section 5 and was liable to be taxed in the hands of partners. The mere fact that partners had not withdrawn the amount would not mean that the amounts had not been received.

Filing of Income Tax Returns by Partners

As per the forms notified for AY 2013-14 read with instructions thereto, ITR-3 has to be used by an individual or an Hindu Undivided Family who is a partner in a firm and where income chargeable

to income-tax under the head "Profits or Gains of Business or profession" does not include any income except the income by way of any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from such firm.

However, ITR-3 should not be used by an individual whose total income for the assessment year 2013-14 includes Income from Business or Profession under any proprietorship

ITR-4S is prescribed for individuals and Hindu Undivided Family whose total income for AY 2013-14 includes business income computed in accordance with special provisions referred to in section 44AD.

The question arises whether a partner of a firm should file his Income Tax Return in ITR-3 or ITR-4S. While ITR-3 is appropriate from the viewpoint of assessee being a partner of a firm, ITR-4S would be appropriate from the viewpoint of nature of income being returned.

In form ITR-3, the gross receipts from the firm minus the expenses incurred to earn the same are entered. The net income is computed as income under the head "Profits or Gains of Business or Profession". There is no provision for returning 8% of gross receipts as income. Keeping this in mind, the Department may argue that the benefit of section 44AD is inapplicable for partners of a firm. Such an argument may be countered on the basis that the Act is superior to the Rules and Forms as the Act is passed by Parliament whereas the Rules and Forms are only delegated legislation. A benefit conferred by the Act cannot be refuted by the CBDT through Rules and Forms notified by it.

Conclusion

The provisions of section 44AD appear to be aimed at freeing small business entities from the rigours of maintenance of books of accounts, advance tax, etc. However, as discussed above, such benefit may also accrue to partners of partnerships and LLPs. Such benefits may also be available to foreign partnerships / LLPs and partners thereof. In advising on entry strategies and other structuring, this could be another selling point to favour a LLP over a company. ■

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1	002679	MR. CHENGALVAROYAN M T	FCA	CHENNAI	23/05/2013
2	012120	MR. NAMBURI VENKATESWARA RAO	FCA	VIJAYAWADA	20/12/2012
3	020705	MR. RAJASEKHARAN M	FCA	CHENNAI	06/04/2013
3	028777	MR. KRISHNAN C N	FCA	TIRUPUR	20/02/2013

May the Almighty Architect of the Universe rest their souls in peace

Applicability of Deemed Dividend- Section 2(22)(e)



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Introduction

Normally Dividend is exempt under section 10(35) of the Income Tax Act, 1961 in the hands of the Recipient because of applicability of Dividend Distribution Tax (DDT) under section 115D of the Income Tax Act, 1961. In real terms it is not free from income tax, Government is getting more revenue due to charging of DDT on Dividend. Though some of the Recipients are not coming under the tax net but they have to pay Dividend Distribution tax in indirect manner.

There is one more charging section with reference to the Dividend in the Income Tax Act, 1961, i.e., Deemed Dividend., provisions of section 2(22)(e).

Provisions of Section 2(22) (e) of the Income Tax Act, 1961 are as under:

“dividend” includes-

“Any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise) [made after the 31st day of May, 1987, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than ten per cent of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as the said concern)] or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits “

Basis for the introduction of aforesaid provision was already available in the old Income Tax Act, 1922. As per the provisions of section 2 (6A) (e) of the Indian Income Tax Act, 1922, any amount paid by closely held company to its Principle Share-holders as a Loan or Advance will be deemed Dividend. The purpose behind this was that closely held companies should not pay any amount to its principle share- holders in the form of Loan for avoiding the tax on dividend income.

Nomenclature of this section connotes that this section has been brought on statue as “Deeming Fiction”. It means that the income termed as dividend is actually not dividend distributed by a closely held company but the amount paid is still treated as dividend and hence the term “Deemed Dividend”.

Scope of Section

For applicability of the provisions of aforesaid section 2(22) (2), following terms needs to be analyzed in detail:-

1. Type of Company

The company must be a company in which public are not substantially interested i.e. a closely held company. It means that the company which is paying loan/advance should be a closely held company but the company which is receiving such loans/advances can be a public company or a listed company on the stock exchange. A Closely Held Company i.e., a Company in which the public is not substantially interested. Company in which public is substantially interested (See Section 2(18)) includes:

- a company owned by the Government or the RBI or more than forty percent of the shares are owned by Government or the RBI

or a corporation owned by the RBI.

- a company registered under section 25 of the Companies Act, 1956.
- a company not having share capital and declared by the Board to be such company
- a Mutual Benefit Finance Company – business of acceptance of deposits from members and notified by the Central Government u/s 620 of the Companies Act, 1956.
- a company, whose more than 50% Equity Shares (not being Preference Shares) held by one or more Co-operative Societies throughout the previous year.
- a company not being a Private Company as defined in the Companies Act, 1956, whose Equity Shares were listed on the 31 March of the previous year in a Recognised Stock Exchange.

2. Nature of Payments

Any payment by way of advance or loan or any payment, on behalf of, or for the individual benefit of such Shareholder, to the extent of accumulated profits.

The term “Loan or Advance” has not been defined under the Income Tax Act, 1961. Basically, the Loan or Advance must create the relationship of ‘lender’ and ‘borrower’ and not merely that of a ‘debtor’ and ‘creditor’. A relationship of ‘lender’ and ‘borrower’ will generally be created when there is an outgoing or flow of money from the company to the shareholder. Any interest on the loan, resulting in an increase in the total amount due, shall not be considered a loan for the purpose of Section 2(22)(e).

Loans and advances given during the year i.e. year under consideration can only be taken into account for the purpose of deemed dividend and loans and advances given in earlier years should not be added to the loans and advances of year under consideration

In the matter of Dr. Fredie Ardhesir Mehta v. Union of India [1991] 70 Comp. Cas. 210 (Bom) it was held that Loan means an advance of money, upon the understanding that it shall be paid back, and it may or may not carry interest. A credit sale resulting in a Book Debt does not amount to a loan.

The term ‘advance’ is of wide import & has undoubtedly more than one meaning, depending on the context in which it is used. In its widest meaning, the term ‘advance’ may or may not include lending or the obligation of repayment. The usual meaning of a loan are that it involves positive act of lending coupled with the acceptance by the other side of the money as loan – it generally carries interest and there is an obligation of repayment.

In case of CIT v. G. Venkataraman [1975] 101 ITR 673 (Mad.) it was held that mere creation of debtor-creditor relationship is not enough- There should be an actual cash advance or loan from the company to the assessee and the mere creation of a debtor and creditor relationship between the company and the assessee will not be enough. There should be an outgoing or flow of money from the company to the shareholder.

3. Persons Covered

Any shareholder who is a beneficial owner of 10% or more of Voting power of the Company (but the shares shall not be entitled to a fixed rate of dividend, whether with or without a right to participate in profits). Or to a concern (includes {HUF, Firm, AOP or BOI, Company})

in which such shareholder is a partner or a member, and; has substantial interest (when entitled to 20% or more of the income of such concern). In other words Preference Shareholders (whose fixed rate of dividend) are not covered under this one.

It is a moot question as to whether the expression, "being a person as a beneficial owner of shares qualifies the word shareholder:" i.e. whether to attract the provisions of Section 2(22) (e), the person to whom the loan or advance is made should be a shareholder as well as beneficial owner. In the case of CIT vs. National Travel Services, Delhi High Court concluded that the beneficial owner may not be a registered shareholder or vice versa. Therefore, loan received by a firm, whose partners are registered shareholders of the company which advanced the loan, would fall within the ambit of Section 2(22) (e).

However, Allahabad High Court in the case of CIT vs. Rajkumar Singh and company (2007) 295 ITR 9 held that conditions stipulated in Section 2(22)(e) were not satisfied where a firm was not shareholder of a company which gave the loan and the partners of the firm were shareholder in the books of company. This judgment was rendered following Supreme Court judgment in the case of C.P. Sarathy Mudaliar's case (1972) 83 ITR 170, wherein, the Supreme Court held that only loan advanced to Shareholder could be deemed dividend under Section 2(6)(A)(e) of the old Act.

4. Accumulated Profits

The explanation 1 & 2 appended to Section 2(22)(e) defines accumulated profits and states that it will include all the profits i.e. commercial profits. The apex court in the case of P.K.Badiani (1976) 105 ITR 642 has held that the term "Profits" appearing in Section 2(6a)(e) of Indian Income Tax Act, 1922, which corresponds to Section 2(22)(e) of the 1961 Act, means profits in the commercial sense, i.e. profits made by company in the usual and true sense of the term. It has also been held that development rebate reserves created out of the company's profits constitute a part of the accumulated profits of a company. In view of this judgment it is clear that all the reserves created by company would form a part of accumulated profits for the purpose of Section 2(22)(e). Accumulated profit for the purpose of this section is required to be calculated till the date of payment of each loan / advance. Hon'ble Apex Court also accepted this in the matter of Tarulata Shyam vs. CIT (1977) 108 ITR 345(SC).

Moreover, in the case of NCK Sons Exports (P) Ltd. vs. ITO (2006) 102 ITD 311 (MUM), it was held that, there is no ambiguity in the definition of "accumulated profits given in explanation 1 and 2 of Section 2(22) (e) and for the purpose of this section the accumulated profits include all profits of the company upto the date of distribution or payment referred to in sub clause (e). Explanation 2 of Section 2(22)(e) very clearly says that accumulated profit referred to in sub clause (e) shall include all profits of the company upto the date of distribution or payment. Meaning thereby, in case the date of payment falls within the year under consideration then the whole year profit will be taken into account to compute the profit upto the date of payment i.e. if payment is made after 200 days from the beginning of the financial year then the profit of the year till the date of payment would be 200/365* Profit of the year. As far as a closely held company, being a builder and following project completion method is concerned, accumulated profit has to be determined till the date of payment of advance/loan.

Other Points

1. Deduction of Tax at Source u/s 194

As per the provisions of Section 194, TDS under Section 194 is required to be deducted by the company, even when the loans and advances given to a shareholder is being treated as deemed dividend in the hands of shareholder. However, the provisions of Section 194

are restricted to registered shareholder of the company.

Further, the company may be liable to penalty u/s 271C(1)(a) of an amount equal to the 'amount of tax which such person' failed to deduct. The Assessing Officer can refer the matter to the concerning TDS officer.

2. Deemed Dividend in the hands of a Non-Resident Shareholder

Section 2(22)(e) does not distinguish between a Resident or Non-resident shareholders. Further, it is pertinent to note that by virtue of Clause (iv) sub-section (1) of section 9, "any dividend paid by an Indian company outside India" is 'Income deemed to accrue or arise in India'. Therefore, Deemed Dividend u/s 2(22)(e) is subject to tax in India in the hands of a Non-resident Shareholder subject to DTAA relief, if any.

3. Deemed Dividend in case of Loan or Advance by a Foreign Company to a Resident Shareholder

Section 2(22)(e) does not distinguish between an Indian or a Foreign Company. Sum paid by a Foreign Company to a resident shareholder has been held as deemed dividend (See Gautam Sarabhai v. CIT (1964) 52 ITR 921 (GUJ.))

4. Reporting of Deemed Dividend by the Auditor – in case of Audit u/s 44AB of the Income Tax Act.

There is no specific provision in the Audit Report Form No. 3CD prescribed by the Income Tax Rules, 1962 for reporting of 'Deemed Dividend' paid by a Company. However, Clause 27 of Form No. 3CD requires the auditor to disclose whether the assessee has complied with the provisions of Chapter XVII-B relating to Deduction of Tax at Source. Since Tax is required to be deducted by the principal officer of an Indian Company u/s 194, the Auditor is obliged to report of Non-deduction of TDS u/s 194 in the Audit Report Form No. 3CD.

5. Burden of Proof

The burden is on the Revenue to prove that the case is falling within the mischief of the deeming provision u/s 2(22)(e) of the Income Tax Act, 1961. Same was validated in the case of Subrata Roy Sahara v. ACIT Central Circle III, Lucknow (2007) 109 ITD 1 (Luck) (TM).

6. Inter Corporate Deposits

The loan or advance mentioned in Section 2(22)(e) includes any deposit including Inter Corporate Deposit (ICD). There is contrary view also made by some experts.

Exceptions:

There are following transactions are out of preview of Deemed Dividend under section 2 (22) (e) of the Income Tax Act, 1961:-

1. If granting of Loans or advances is in the ordinary course of its business and lending of money is a substantial part of the company's business. (See Section 2(22)(e) (ii)). A company can be held to be in the business of money lending only when it has license from RBI or company is an NBFC.
2. A loan or advance not covered by Accumulated Profits is not deemed to be dividend.
3. Advance for business transaction would not fall under the Deemed Dividend.

Invitation for Contribution of Articles

SIRC of ICAI invites Articles from Members for publication in the SIRC Newsletter. SIRC is releasing Theme Based monthly Newsletter. The theme finalized for the next three months as follows:

Month	Theme	Articles to reach SIRC on or before
August 2013	Indirect Taxes	July 20, 2013
September 2013	Tax Audit under Sec. 44 AB	August 20, 2013

Members may send the soft copy of their article, profile and passport size colour photograph to SIRC by email to sirc@icai.in and sircnews@icai.in for consideration by the Editorial Board on or before the above said dates.

ANALYSIS OF THE RECENT SANOFI CASE DECISION ON INTERNATIONAL TAXATION



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In a clear win for French pharma major Sanofi, the Andhra Pradesh High Court has ruled that the offshore transaction that led to it gaining control of Hyderabad-based company Shantha Biotechnics Ltd was not taxable in India.

The transaction is taxable only in France according to the India-France Double Taxation Avoidance Pact, a division Bench of Justices G. Raghuram and M.S. Ramachandra Rao said.

The move by Budget 2012-13 to retrospectively bring indirect transfer of shares within the tax net had no impact on the DTAA, it was held.

THE CASE SUMMARY

Merieux Alliance (MA) and Groupe Industriel Marcel Dassault (GIMD), both French companies, held 80 per cent and 20 per cent shares, respectively, in ShanH SAS (ShanH), another French company. ShanH, in turn, held shares in Indian company Shantha Biotechnics Ltd. (SBL)

In August 2009, MA and GIMD sold its shareholding in ShanH to another French company, Sanofi Aventis. The transaction was carried out in France.

Indian income-tax authorities sought to bring this transaction to tax in India and issued a demand notice to Sanofi for not deducting tax at source on the deal amount. They also relied on the retrospective amendments to income-tax law in Budget 2012-13 to support their arguments for bringing the Sanofi transaction to tax in India.

CHRONOLOGICAL EVENTS RELATING TO THE CASE

04.08.2009

Survey u/s 133A of the Act in SBL office premises (on Revenue's assumptions based on newspaper reports that Sanofi is to acquire more than 80% stake in SBL from ShanH, referred to as a subsidiary of MA); that the acquisition attracts provisions of TDS u/s.195 of the Act; and that ShanH had originally acquired stake in SBL in November, 2006, by acquiring shares from different non-residents, payments relating to which also attract the provisions of Section 195. The survey revealed (on verification of the Memorandum of Share Transfer register of SBL) that ShanH made payments totaling Rs.359.87 crores, Rs.20.60 crores and Rs.82.12 crores during FY 2006-07, 2007-08 and 2008-09 respectively, to various NRI's for purchase of SBL shares.

14.12.2009

The Revenue [Dy. Director of IT (INTL TAXN) -II Hyderabad], passed two orders for FY 2007-08 and 2008-09, both bearing reference Nos. DDIT(IT)-II/Order 201/2009-10, u/s.201(1) of the Act, against ShanH. The orders determined the tax and interest liability, as specified herein. Revenue accepted ShanH to be the purchaser of SBL shares (after survey and verification of relevant documents).

20.11.2009

MA and GIMD filed separate applications before the Authority for Advance Rulings (AAR), u/s.245Q(1) of the Act for an advance ruling on two questions, viz.:-

Question (1)

In terms of the provisions of the double taxation avoidance treaty dated 6th September, 1994, as amended from time to time, entered between the Republic of India with the Government of French Republic ("Indo-French Tax Treaty") read with Section 90 of the income Tax Act, 1961, whether the Capital gains arising from the sale of shares of ShanH (French Incorporated Entity) by the Applicant (French incorporated Entity) to Sanofi (French incorporated Entity) is liable to tax in France or in India.

Question (2)

Without prejudice to above, whether controlling interest (assuming while denying that it is a separate asset) is liable to be taxed in France under Article 14 (6) of the Indo — French Tax Treaty?

GIMD raised only the first question and sought a ruling thereon.

After the proceedings, The AAR concluded that the relevant sequence of events (MA investing in acquisition of SBL shares through a subsidiary ShanH; eventually acquiring a controlling interest, the shares having been acquired in the name of ShanH; subsequently GIMD coming on to acquire a 20% equity in ShanH; shares in SBL being the only asset of ShanH with no other business; and eventually MA and GIMD offloading shares in ShanH to Sanofi) is a process whereby what really passed is the underlying assets and control of SBL, an Indian company; a gain is generated by this transaction; and by repeating the process, the control over the Indian assets and business can pass from hand to hand without any liability to tax incurred under the Act, if the transaction were accepted at face value. Further held that it is not necessary to ignore the existence of ShanH to come to the conclusion that the series of transactions is a façade in the context of the tax law and would amount to a scheme for avoidance of tax.

After the necessary legal proceedings and hearings, on 25.05.2010: Assistant Director of Income-Tax (Intl.Txn.) - II, Hyderabad, passed an order u/s.201(1)/(1)A of the Act. Sanofi was held liable to tax and interest on long-term capital gain at Rs.5,94,99,26,425/- and interest (from 01.09.2009 to 25.05.2010 at Rs.53,54,83,378/- in all Rs.6,48,54,09,803/-). A notice of demand u/S.156 of the Act of even date was also issued.

15.11.2011

After a due process, a rectification order was issued re-determining the long-term capital gains tax at Rs.8,33,12,47,206/- and interest for twenty-seven months (September, 2009 to November, 2011) at Rs.2,24,94,36,746/- The total amount set out being Rs.10,58,06,83,952/-.

15-02-2013

The Hon'ble High Court of Andhra Pradesh (Division Bench comprising Hon'ble Justices Goda Raghuram and M.S. Ramachandra Rao) [in W.P.Nos. 14212 of 2010, 3339 and 3358 of 2012 filed by the Petitioners] by its judgment dated 15-02-2013 held that: .

- ShanH is an independent corporate entity, registered and resident in France. It has a commercial substance and a purpose (FDI in SBL); and is neither a mere nominee of MA and/or MA/GIMD, nor is a contrivance/device for tax avoidance;
- Since inception (in 2006) till date, ShanH (not MA or MA/GIMD) had acquired and continues to hold the SBL shares;
- There is no warrant for lifting the corporate veil of ShanH; and even on looking through the ShanH corporate persona, there is no material to conclude that there is a design or stratagem to avoid tax;
- The capital gain arising as a consequence of the transaction in issue is chargeable to tax; and the resultant tax is allocated to France (not to India) under the DTAA;
- The retrospective amendments to the Income Tax Act, 1961 (vide the Finance Act, 2012) have no impact on interpretation of the DTAA; the transaction in issue falls within Article 14(5) of the DTAA; and the tax resulting therefrom is allocated exclusively to France;
- The ruling dated 28-11-2011 of the Authority for Advance Rulings is unsustainable; and
- The order of assessment dated 25-05-2010 (determining Sanofi to be an assessee in default, u/s Sec. 201 of the Act) is unsustainable. The consequent demand notice dated 25-05-2010 and the Rectification order dated 15-11-2011, being orders/proceedings consequent to the order dated 25-05-2010, are unsustainable.

Declarations

In the light of our conclusions (summarized in paragraphs above), the ruling dated 28-11-2011 of the Authority for Advance Rulings, the order of the Sanofi assessment dated 25-05-2010, the consequent notice of demand also dated 25-05-2010 and the Rectification order dated 15-11-2011 are quashed.

The Writ Petitions are allowed as above.

Conclusion of the Author

The AP High Court judgment upholds the primacy of India's tax treaty commitments with other countries. The 152 page judgment is delivered after doing a hair split analysis of the case and the Honorable Judges have put in their heart and soul in the subject matter of the case. The revenue may approach the apex court as they are aggrieved, still the judgment of the HC stands out with its depth and judicial wisdom. The judgment clearly airs the message that amendments to the Income Tax Act with retrospective effect cannot be treated as having effect on the already committed DTAA. ■

DISCLAIMER

The SIRC/ICAI does not accept any responsibility for the views expressed in different contributions/ advertisements published in this Newsletter.

APPEAL TO ALL MEMBERS AND STUDENTS OF ICAI

The recent landslide and floods in Uttarakhand have caused extensive devastation. A large number of people have died and thousands have been rendered homeless.

At this moment, the affected people in Uttarakhand need help to tide over the calamity that has fallen upon them, to survive and to rebuild their lives. In this scenario, ICAI has decided to stand with our distressed fellow countrymen, and actively participate in the national effort to support them at this difficult time. ICAI contributed truck load of relief material containing clothes, groceries and other necessities to Uttarakhand.

Besides the above, ICAI has opened a bank account exclusively for the purpose of collecting donations from members, students and others so that the same can be paid to Prime Minister's National Relief Fund (PMNRF).

We hereby appeal to all members, students and others to donate generously towards this noble cause. The details of bank account are as under:

ICAI Uttarakhand Flood Relief Account – 33079969989

State Bank of India, IFSC Code - **SBIN0001187**, I.P. Estate Branch, New Delhi – 110 002

The collected amount will be given to PMNRF. All contributions towards the PMNRF are exempted from Income-tax under Section 80(G). The donors are requested to follow up their donations with a letter/email to the Institute giving their name, address, amount and date of contribution, so that receipts could be obtained from PMNRF for onward transmission to the donors. The letter/email can be sent to: The Additional Secretary (Accounts), The Institute of Chartered Accountants of India, 'ICAI Bhawan', A-29, Sector-62, Noida – 201 309. Email: accounts@icai.in

Announcement for Interactive Voice Response System (IVR) at Southern Regional Office, Chennai. For Queries Students and Members can call on 044-30210351.

STUDENT QUERY OPTIONS

Press Number	Query to be attended to
1	To get your CPT registration Number
2	To know your Intermediate IPCC direct
3	To know your IPCC registration
4	To know your Article registration
5	To know your Article Re-registration
6	To know your Article Termination & completion
7	To know your Final registration Date of enrolment
8	To know ITT & Orientation certificate number

MEMBER QUERY OPTIONS

Press Number	Query to be attended to
1	For Membership fee Details
2	For COP Status
3	For Fellow status
4	For Restoration
5	For New member Registration Number
6	To know your payment status

Updates on Direct Taxes

CA. V.K. Subramani
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1. Interest payment when more than the limit prescribed in a statute, it is hit by the Explanation to section 37(1):

In *Muthoot Finance Corporation v. CIT* [2013] 87 DTR (Ker) 212 the assessee made interest payments to depositors and the rate of interest was more than the limit prescribed under the Kerala Money Lenders Act. The Revenue disallowed the amount of expenditure beyond the limit prescribed in the Money Lenders Act by applying the Explanation to section 37(1). The assessee cited apex court decision in the case of *CIT v. Piara Singh* [1980] 124 ITR 40 (SC) to claim that even where the income is found to be illegal, the claim of loss incurred in pursuit of earning of such income is to be allowed and thus the payment of interest in excess of the limit prescribed cannot be termed as an offence to disallow the claim of deduction. The court held that the claim of deduction of expenditure will depend upon the express provisions of the Act. Even though incurring of expenditure may not lead to commission of an offence, it is in excess of the limit prescribed under a statute. Thus the expenditure beyond the prescribed rate of 14 percent per annum is in the teeth of the Explanation to section 37(1), attracting disallowance of the same.

2. Transfer of a unit to a subsidiary company is succession entitling pro rata depreciation to both the transferor and transferee:

In *Sree Jayajothi & Co Ltd v. CIT* [2013] 87 DTR (Mad) 205 the assessee owned two units located in different places with separate staff, management, funds and accounts. The assessee decided to hive-off one unit by forming a subsidiary company. The issue before the court was the claim of depreciation by the assessee (holding company) in respect of assets partly used during the year but transferred to subsidiary company (who also claimed depreciation for a fraction of the year). The court held that the assessee when sold an undertaking to its subsidiary company formed for the purpose, it is a case of succession and not an outright sale. The transferor company and the transferee company can claim depreciation in terms of the fifth proviso to section 32(1) and the proviso is meant to limit the total allowance of depreciation claim in the ratio of the number of days, the assets were used by the predecessor and the successor company. The court impliedly held that the written down value for the purpose of working out depreciation would be as provided for in the Explanation 2 to section 43(6) viz. the actual cost of block of assets, as reduced by the amount of depreciation actually allowed in relation to the preceding previous year at the hands of the transferee company.

3. Retrospective amendments could aid all pending proceedings:

In *ITO v. Anil Kumar & Co* [2013] 354 ITR 170 (Karn) the claim of expenditure was disallowed due to non-deduction of tax at source by applying section 40(a)(ia) of the Act. During the course of appeal before the Commissioner (Appeals), there was an amendment to section 40(a)(ia) with retrospective effect from 01.04.2005 extending the time limit for remitting the deducted tax amounts up to the due date for filing the return specified in section 139(1) of the Act. The issue before the court was whether the retrospective amendment would benefit the assessee who remitted the TDS amount before the due date for filing the return specified in section 139(1). The court decided in the affirmative and held that the assessing authority was justified in making the disallowance but on the date the appeal was filed, the section

was amended, giving retrospective benefit. The appellate authority extended the benefit of the amended provision, which was approved by the tribunal. The court accordingly held that the order of the tribunal does not call for any interference.

4. To grant registration u/s.12A the objects of the trust are to be examined and not the commencement of activities:

In *Director of Income-tax (Exemptions) v. Meenakshi Amma Endowment Trust* [2013] 354 ITR 219 (Karn) the assessee-trust filed its application for registration under section 12A within nine months after it was formed. Since the trust did not carry on any activity, the registration was not granted. The tribunal held that the income-tax authority must look into the objects and activities of the trust for grant of registration under section 12A and it directed the authority to grant recognition if the trust had fulfilled the requisite conditions. The court held that when a trust was formed with a corpus of Rs.1000 each by each of the trustees, it showed that they were contributing in a humble way and were intending to commence charitable activities. It held that one cannot expect the trust to do activity of charity immediately and in such situation, the objects have to be taken into consideration and not the activity which has not yet commenced. If subsequently, the trust has not conducted any charitable activities, it is always open to the authorities to cancel the registration. The court accordingly held that rejection of application based on the activity, as not tenable in law.

5. Assessment cannot be made merely based on the statement recorded in a survey conducted under section 133A:

In *CIT v. P.Balasubramanian* [2013] 354 ITR 116 (Mad) consequent to a survey conducted under section 133A, the Assessing Officer made an assessment based on the statement recorded at the time of survey. The court held that statement recorded under section 133A was not recorded on oath and hence does not have any evidentiary value. A power to examine a person on oath is conferred on the authorities only under section 132(4) in the course of any search or seizure. However, section 133A does not empower the tax authorities to examine any person on oath. Since the statement of the assessee was not substantiated in any other manner by the revenue, it held that the addition made by the Assessing Officer solely based on the statement of the assessee, as not tenable in law.

6. Transaction between partner and firm is also covered by section 269SS:

In *CIT v. V.Sivakumar* [2013] 354 ITR 9 (Mad) the assessee a partner in four firms took loan in cash for which penalty of Rs.18 lakhs being the equivalent amount of loan, was slapped by applying section 271B of the Act. The court made reference to *CIT v. Lohpat Film Exchange (Cinema)* 2008] 304 ITR 172 (Raj) wherein it was held that the inter se transactions between the partner and firm are not governed by section 269SS and 269T of the Act. However, it made reference to the binding precedent in *CIT v. Laxmi Trust Co* [2008] 303 ITR 99 (Mad) where it was held that genuine bona fide transaction could be spared from penalty as the authority having the right to impose penalty also has a discretion not to levy penalty. It accordingly held that as the assessee had acted bona fide and there was reasonable cause within the meaning of section 273B of the Act, he could be spared from penal consequence. It accordingly declined to interfere with the order of the tribunal, which was in favour of the assessee. ■

Updates on Indirect Taxes

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1. [2013] 60 VST 506 (SC) [IN THE SUPREME COURT OF INDIA] v. POLAR INDUSTRIES LTD Sales Tax – Exemption – Industrial unit – Eligibility Certificate – Consignment transfer of goods outside state – is violation of condition for exemption – cancellation of eligibility certificate and assessment of tax liability – justified – Haryana General Sales Tax Act (20 of 1973), S. 13B- Haryana General Sales Tax Rules, 1975, R.28A.

2. The orders are signed by two members and the other member has not signed does not mean that the order was ineffective. **[2013] 60 VST 512 (P&H) [IN THE PUNJAB AND HARYANA HIGH COURT] MARUTI UDYOG LTD. V. STATE OF HARYANA** Value Added Tax – Tax Tribunal – Appeal Before – Practice Order Signed By Two members out of three – Member Bench – Non signing of third member of failure to record dissent with majority view would not render majority opinion ineffective – Inaction of ministerial Bench constituted to rehear appeal, not estopped from challenging subsequent orders – Haryana Value Added Tax Act (6 of 2003), S.57-Haryana Tax Tribunal Value Added Tax – Tax Tribunal – Appeal before – Practice – Order signed by two members out of three – Member Bench – Non - signing of third member or failure to record dissent with majority view would not render majority opinion ineffective – inaction of ministerial staff in communicating majority order to appellant cannot override majority opinion of members – reconstitution of another bench to rehear appeal – not permissible – functus officio, meaning of – Haryana Value Added Tax Act (6 of 2003), S. 57 – Haryana Tax Tribunal Regulations, 2004.

Value Added Tax – Estoppel – Tax Tribunal – Appeal before – Order signed by two members out of three member bench but not communicated to appellant – a conclusive order by statutory authority – Appellant not disputing hearing of appeal by subsequent regulations, 2004.

3. When assessment is remanded for re-assessment there is no limitation of time. **[2013] 61 VST 1 (AP) M.K.B.COLD STORAGE V. COMMERCIAL TAX OFFICER MADANAPALLE, CHITTOOR DISTRICT AND ANOTHER** Value Added Tax - Assessment - Appeal – Re-assessment – Limitation – Appellate Authority Setting Aside Assessment order dated March 25, 2008 based on vigilance report and remitting matter to Assessing Authority – Appellate Authority's Order communicated to Assessing Authority on October 29, 2008 and Reassessment Order passed by Assessing Authority on August 31 2012 – Re-assessment to give effect to directions of Appellate Authority – Barred by limitation prescribed under 37 – Limitation prescribed under section 21(4) not applicable – Andhra Pradesh Value Added Tax Act (5 of 2005), SS.21(4), 37.

4. Trade discount not deductible. **[2013] 61 VST 5 (Cal) CROMPTON GREAVES LIMITED V. ASSISTANT COMMISSIONER OF COMMERCIAL TAXES, CORPORATE DIVISION AND OTHERS** Sales Tax – Deduction – Trade discount – Discount by credit notes not allowed to purchaser or reflected in invoices at time of sale – Not turnover discount – Not deductible – West Bengal Sales Tax Act (49 of 1994).

5. [2013] 61 VST 23 COMMISSIONER OF SALES TAX, MAHARASTRA STATE, MUMBAI V. KOLSITE INDUSTRIES Sales Tax – Sale price – Deduction – Insurance charges – Delivery of goods ex-works – that quoted exclusive of charges payable for insurance clear from agreement between assessee and its buyers – insurance charges borne by buyers independently and separately – not part of sale price – Bombay Sales Tax Act (51 of 1959), S. 2(H).

Sales Tax – Tribunal – Tribunal examining entire transaction between assessee and its buyers, on basis of documents produced before it – entitled to take different view from ITD earlier view, pertaining to same issue, in different assessment years.

6. [2013] 60 VST 376 (CESTAT – Ahd) [BEFORE THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL – AHMEDABAD] ZYDUS TECH. LTD. V. CST, AHMEDABAD Service Tax – Exemption – Special Economic Zone – Pharmaceutical unit – refund claim of Service Tax paid on scientific and technical consultancy services received – Specific certificate indicating services received by unit and justification for use of such services in relation to authorized operations issued by approval committee – Not open to authorities to go into matter – Even trial manufacture of drugs and R & D to be considered as part of manufacturing process – Rejection of claim on ground no nexus with authorized operations and unit not functioning when services received or claim filed – Not justified – Finance Act (31 of 1994), S. 66 – Special Economic Zones Act (28 of 2005) – Special Economic Zones Rules 2006.

7. [2013] 60 VST 385 (CESTAT-Ahd) [BEFORE THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL – AHMEDABAD] ZYDUSBSV PHARMA PVT .LTD. V. CST, AHMEDABAD Service Tax – Exemption - Special Economic Zone – Unit in special economic zone granted certificate indicating services received and justification for use of such services in relation to authorized operations by approval committee – not open to authorities to go into matter and arrive at their own findings – Rejection of refund claim by unit in special economic zone on ground of absence of nexus between services received and authorized operation – Not justified – Special Economic Zones Act (28 of 2005) – Finance Act (32 of 1994) – Notification No.09/2009 – ST dated March 3, 2009 as amended vide Notification No.15/2009-ST dated May 20, 2009.

Service Tax – Exemption – Special Economic Zone – Notification exempting services provided in relation to authorized operations in special economic zone to unit in special economic zone and giving refund procedure – Subsequent amendment by notification exempting and excluding services consumed wholly within special economic zone from following procedure of claiming refund – Does not disentitle unit to refund of tax paid – Central Excise Act (1 of 1944), S. 83 - Special Economic Zones Act (28 of 2005), SS. 2(M)(ii), 51 – Special Economic Rules, 2006 R.31 – Notification No.09/2009 - ST dated March 3, 2009 – Notification No.15/2009-ST dated May 20, 2009.

8. [2013] 60VST 391(Sikkim) [IN THE SIKKIM HIGH COURT] TASHI DELEK GAMING SOLUTIONS PVT.LTD. AND ANOTHER V. UNION OF INDIA AND OTHERS Service Tax – Legislative powers – Parliament – Lottery tickets – Business auxiliary service – Distributor of lottery tickets State Government – Explanation declaring service provided in relation to promotion or marketing of games of chance, organized conducted or promoted by client taxable – To be deemed as substantive law – Games of chance organized, conducted or promoted by State Government service to self – Not declared as service by explanation – Organizing, conducted or promoting of lottery by State Government permissible through extra commercium (outside commerce) – Value Addition by distributor in relation to game of chance present – Explanation within competence – Finance Act (32 of 1994), S.65(19)(ii), Expln. – Constitution of India, SCH. VII, list I, Entries 40.92C.

Mr. R. SIVAKUMAR WE WISH YOU A HAPPY RETIRED LIFE

Retired on Superannuation on 30th June 2013



Mr. R. Sivakumar, Assistant Secretary, ICAI retired on superannuation after 33 years of meritorious service on 30th June 2013. He joined the Institute as Lower Division Clerk and rose to the position as Assistant Secretary by his sincere and hard work.

May the Almighty give him health, wealth, prosperity, peaceful and long retired life.

Mr. S. SEKAR WE WISH YOU A HAPPY RETIRED LIFE

Retired on Superannuation on 30th June 2013



Mr. S. Sekar, Senior Daftry, ICAI retired on superannuation after 39 years of meritorious service on 30th June 2013. He joined the Institute as Peon and rose to the position of Senior Daftry by his sincere and hard work.

May the Almighty give him health, wealth, prosperity, peaceful and long retired life.

WORK DISPOSAL POSITION

The position of disposal of various matters relating to Members and Students of Regional Office, Chennai as on **27.06.2013** is as under:

Particulars	Disposal of records received upto
Members	
Enrolment of Members	24.06.2013
Fellow Admission	24.06.2013
Grant of COP	24.06.2013
Restoration of Name – Recommended upto	21.06.2013
Restoration of Name – Cleared upto	24.06.2013
Constitution of Firms	22.06.2013
Reconstitution of Firms	21.06.2013
Paid Assistant	15.06.2013
Change of Address – Members	21.06.2013
Change of Address – Firms	21.06.2013

Particulars	Disposal of records received upto
Students	
Registration of Articles	15.06.2013
Re-registration of Articles	15.06.2013
Industrial Training	30.05.2013
Termination of Articles	17.06.2013
Completion of Articles	24.06.2013
Permission to pursue Other Courses	15.06.2013
Despatch of Materials – CPT	17.06.2013
Despatch of Materials – IPCC	31.05.2013
Despatch of Materials – ATC	31.05.2013
Despatch of Materials – Final	17.06.2013
Despatch of Materials - ITT	30.04.2013

SEMINAR ON CLAUSE BY CLAUSE ANALYSIS OF FINANCE ACT - 2013 - 01.06.2013



CA. K.U. Shankar
Chennai



CA. P.C. Anand
Chennai

WORKSHOP ON TAMIL NADU VAT WITH SPECIAL REFERENCE TO TN VAT AUDIT - 07.06.2013



CA. J. Murali
Chennai



CA. P. Sankaran
Chennai



CA. V.V. Sampath Kumar
Chennai

WORKSHOP ON INTERNATIONAL TAXATION 08.06.2013



CA. Divakar Vijayasarithy
Chennai



CA. Sivam Subramaniam
Chennai

WORKSHOP ON FORENSIC ACCOUNTING & FRAUD DETECTION - 15.06.2013



CA. G. Subramaniam
Chennai



CA. P. Selvamoorthy
Chennai

SEMINAR ON VALUATION OF SHARES USING DCF - 22.06.2013



CA. V. Manoj
Chennai

WORKSHOP ON DERIVATIVES AND EQUITY JUNE 29, 2013



CA. V. Pattabhi Ram
Chennai



CA. A.P. Prakasam
Chennai

CPE STUDY CIRCLE MEETINGS - JULY 2013 RESOURCE PERSONS

05.06.2013



CA. P. Sathesan
Thrissur

12.06.2013



CA. K. Kanagaraj Antonymsamy
Chennai

19.06.2013



CA. Hari Govind
Pondicherry

26.06.2013



CA. S. Chandrakumar
Chennai

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